

15-4020

Todd C. Bank, Plaintiff, v. Uber Technologies, Inc.

MANDATE

UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT

SUMMARY ORDER

RULINGS BY SUMMARY ORDER DO NOT HAVE PRECEDENTIAL EFFECT. CITATION TO A SUMMARY ORDER FILED ON OR AFTER JANUARY 1, 2007, IS PERMITTED AND IS GOVERNED BY FEDERAL RULE OF APPELLATE PROCEDURE 32.1 AND THIS COURT'S LOCAL RULE 32.1.1. WHEN CITING A SUMMARY ORDER IN A DOCUMENT FILED WITH THIS COURT, A PARTY MUST CITE EITHER THE FEDERAL APPENDIX OR AN ELECTRONIC DATABASE (WITH THE NOTATION "SUMMARY ORDER"). A PARTY CITING TO A SUMMARY ORDER MUST SERVE A COPY OF IT ON ANY PARTY NOT REPRESENTED BY COUNSEL.

At a stated term of the United States Court of Appeals for the Second Circuit, held at the Thurgood Marshall United States Courthouse, 40 Foley Square, in the City of New York, on the 18th day of October, two thousand sixteen.

PRESENT:

RALPH K. WINTER,
JOSÉ A. CABRANES,
Circuit Judges,
JANE A. RESTANI,
*Judge.**

Todd C. Bank,

Plaintiff-Appellant,

v.

15-4020

Uber Technologies, Inc.,

Defendant-Appellee.

*Jane A. Restani, Judge for the United States Court of International Trade, sitting by designation.

MANDATE ISSUED ON 12/08/2016

1 FOR PLAINTIFF-APPELLANT: Todd C. Bank, *pro se*, Kew Gardens,
2 NY.

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4 FOR DEFENDANT-APPELLEE: David J. Fioccola, Adam J. Hunt,
5 Morrison & Foerster LLP, New York,
6 NY; James R. Sigel, Morrison &
7 Foerster LLP, San Francisco, CA;
8 Joseph R. Palmore, Morrison &
9 Foerster LLP, Washington, DC.

10
11 FOR AMICUS CURIAE
12 Judith Ferrenbach: Andrea Bierstein, Mitchell Breit,
13 Simmons Hanly Conroy, New York, NY.
14

15 Appeal from a judgment of the United States District Court
16 for the Eastern District of New York (Gleeson, J.).

17 UPON DUE CONSIDERATION, IT IS HEREBY ORDERED, ADJUDGED, AND
18 DECREED that the judgment of the district court is AFFIRMED.

19 Appellant Todd C. Bank, proceeding *pro se*, appeals the
20 district court's judgment dismissing his complaint. We assume
21 the parties' familiarity with the underlying facts and procedural
22 history of the case.

23 On this appeal, appellant contends that the district court
24 erred in dismissing both his claim under the federal Telephone
25 Consumer Protection Act (TCPA) as well as his claim under New
26 York General Business Law (GBL) § 399-p. We disagree.

27 We review the grant of a motion to dismiss *de novo*,
28 accepting as true all factual claims in the complaint and drawing
29 all reasonable inferences in the plaintiff's favor. *Fink v. Time*
30 *Warner Cable*, 714 F.3d 739, 740-41 (2d Cir. 2013) (*per curiam*).

31 As to appellant's TCPA claim, we affirm substantially for
32 the reasons stated in the district court's opinion.

1 We also affirm the dismissal, without prejudice, of
2 appellant's claim under the New York GBL. Having dismissed
3 appellant's only federal claim, the district court properly
4 declined to exercise supplemental jurisdiction over this state-
5 law claim. See *Oneida Indian Nation of N.Y. v. Madison Cty.*, 665
6 F.3d 408, 436-37 (2d Cir. 2011). Because there is no other basis
7 for federal jurisdiction over appellant's GBL claim, the district
8 court's dismissal was proper.

9 Accordingly, we AFFIRM the judgment of the district court.

10 FOR THE COURT:
11 Catherine O'Hagan Wolfe, Clerk

The block contains a handwritten signature in black ink that reads "Catherine O'Hagan Wolfe". The signature is written over a circular official seal. The seal has a red outer ring with the words "UNITED STATES" at the top and "COURT OF APPEALS" at the bottom. Inside the ring, the words "SECOND CIRCUIT" are written in blue. The signature is written in a cursive style.

A True Copy

Catherine O'Hagan Wolfe, Clerk

United States Court of Appeals, Second Circuit

This block contains a second instance of the handwritten signature "Catherine O'Hagan Wolfe" over the same circular official seal of the United States Court of Appeals, Second Circuit, as seen in the previous block.